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OCT 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Richard N. Shapiro	:	
Application No. 10/622,172	:	ON PETITION
Filed: July 18, 2003	:	
Attorney Docket No. P06288US07/RFH	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 5, 2005 and resubmitted on October 7, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 29, 2005, which set a shortened statutory period for reply of thirty (30) days. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 28, 2005.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply

from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks items (1) and (3) above.

As to item (1), A petition to revive cannot be granted where there is an outstanding requirement.

In the instant case, there was no response to the outstanding official action submitted. Accordingly, the petition to revive cannot be granted until such time as the outstanding response requirement is received.

As to item (3), petitioner must submit a statement that the entire delay in filing the required reply from the due date for the reply until of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner alleging that a response was sent to the Office on April 13, 2005. The Office has no record of the response having been filed on or about that date. If petitioner wishes to pursue this argument with any renewed petition, then petitioner must provide proof that the response was sent to the Office on or about that date in the form of a stamped postcard receipt itemizing the response or an Express Mail label indicating that the response for the instant application was deposited with the United States Postal Service on or about that date. MPEP 503, 37 CFR 1.10.


Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.


Wan Laymon
Petitions Examiner
Office of Petitions